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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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TRICIA TAMKIN,

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Plaintiff,

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vs.

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ZOHO CORPORATION,

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Defendant.

CASE NO. 19-cv-07465-YGR

**ORDER GRANTING MOTION TO REMAND;
DISMISSING STATE COMMON LAW
COPYRIGHT CLAIM**

Re: Dkt. No. 7

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On November 21, 2019, plaintiff Tricia Tamkin filed a motion to remand this case back to the California Superior Court, County of Alameda. (Dkt. No. 7.) Defendant Zoho Corporation filed an opposition thereto, after which plaintiff filed a reply brief. (Dkt. Nos. 17, 21.)

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In addition, on November 25, 2019, defendant filed a motion to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. No. 9.) Plaintiff filed an opposition thereto, after which defendant filed a reply brief. (Dkt. Nos. 18, 23.)

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Having carefully considered the briefing and arguments submitted in this matter, and for the reasons set forth on the record on January 7, 2020, the Court orders as follows:

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(1) Plaintiff's common law copyright cause of action is preempted by the Copyright Act, 17 U.S.C. section 301(a). *Downing v. Abercrombie & Fitch*, 265 F.3d 994, 1003 (9th Cir. 2001); *Kodadek v. MTV Networks, Inc.*, 152 F.3d 1209, 1212–13 (9th Cir. 1998).

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Thus, this state law claim is **DISMISSED WITH PREJUDICE**.¹

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(2) The Court declines to exercise supplemental jurisdiction over plaintiff's remaining claims. *Acri v. Varian Associates* 114 F.3d 999, 1000 (9th Cir. 1997). The Court

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¹ Insofar as the preempted claim may be recharacterized as a federal claim, *Hansen v. Grp. Health Coop.*, 902 F.3d 1051, 1058 (9th Cir. 2018), plaintiff has conceded that she cannot maintain such a claim at this juncture given her failure to register the copyright at issue. *Reed Elsevier, Inc. v. Muchnick*, 559 U.S. 154, 157, 130 S.Ct. 1237, 176 L.Ed.2d 18 (2010).

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1 therefore lacks subject matter jurisdiction to hear this case. Accordingly, the Court
2 **GRANTS** plaintiff's motion to remand this action to the California Superior Court,
3 County of Alameda. The Clerk of Court is directed to remand the case and close the
4 file.

5 This Order terminates Docket Number 7.

6 **IT IS SO ORDERED.**

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8 Dated: January 9, 2020


9 YVONNE GONZALEZ ROGERS
10 UNITED STATES DISTRICT COURT JUDGE

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